

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC. CIVIL APPLICATION(Review) NO.287 OF 2006
IN
WRIT PETITION NO. 6549 OF 2005

Office Notes, Office Memoranda of Coram
appearances, Court's orders or directions
and Registrar's orders.

Court's or Judge's Orders

CORAM : B.P.DHARMADHIKARI, J.
DATED : MARCH 01, 2007

Heard Advocate Shri [P.N.Khadgi](#) for
petitioner / original appellant and Advocate Shri
[M.R.Joharapurkar](#) for respondents.

The review application has been filed
pointing out that under the guise of executing
decree, the present respondents are now trying to
divide entire suit house between he parties. It is
contended that partition ordered by original decree
is only of portion 'F G H I'.

Accordingly, this court has passed order
on 19/1/2007 and issued notice to respondents,
respondents have appeared and filed reply. I have
perused the reply. Prima facie from reply it
appears that suit filed was for partition and
separate possession of already

separated/demarcated portion representing share of deceased Smt.Yashodabai, which was reflected by letters 'F G H I' in plaint map.

Advocate Shri Joharapurkar contends that in view of judgment in the case of **Parsion Devi and others ..Vs.. Sumitri Devi and others,** reported at 1998 (2) Civil C.J. 723 (Supreme Court) and in the case of **Smt. Meera Bhanja .Vs. Smt.Nirmala Kumari Choudhary,** reported at [A.I.R. 1995 Supreme Court 455](#), such an issue cannot be considered in review as there is no error apparent on the face of the record. It is clear that the order dated 23/12/2005 passed by this court has not considered this controversy of existing demarcated portion at all though it was raised and this court has observed that the appellant was asking it to go behind the decree.

After hearing both the counsels, I find that the order needs to be reviewed and the parties are required to be heard on merits in writ petition, for admission.

Accordingly, the review application i.e. [M.C.A. No.287](#) of 2006 is hereby allowed. Order dated 23/12/2005 in W.P. No.6549 of 2005 is recalled. Writ petition be placed for consideration for admission on 20/3/2007.

Review application is disposed of
accordingly. No costs.

JUDGE

Diwale